IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

Crl.MC.No. 1718 of 2007()

CC.505/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM

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PETITIONER:

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1. SISUPALAN, S/O.SADASIVAN,
   REMYA, MADAVOORPARA, PALLICHAL VILLAGE,
   NEYYATTINKARA TALUK.

2. S.SUJITH, S/O.SISUPALAN,
   REMYA, MADAVOORPARA, PALLICHAL VILLAGE,
   NEYYATTINKARA TALUK.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.RENJITH B.MARAR
SRI.PRABHU VIJAYAKUMAR
SMT.LAKSHMI.N.KAIMAL

RESPONDENTS:

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1. K.RAVEENDRAN NAIR, SENIOR GRADE
   LECTURE, GOVERNMENT SANSKRIT COLLEGE,
   TRIVANDRUM.

2. THE STATE OF KERALA, REPRESENTED
   BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1718 of 2007

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Dated this the 30th day of May, 2007

O R D E R

The petitioners are the accused in a prosecution under Section 500 I.P.C. The crux of the allegations is that on account of prior animosity and strain in the relationship, the petitioners - father and son - indulged in the culpable conduct of pasting and publishing posters defamatory to the complainant herein. The learned Magistrate has taken cognizance. The petitioners have come to this Court with a prayer that the prosecution may be quashed invoking the powers under Section 482 Cr.P.C.

2. What are the reasons? The learned counsel for the petitioners raised two contentions. First of all it is contended that there is nothing to show that the petitioners have effected the said publication. Secondly it is contended that malafides vitiate this prosecution and this prosecution is launched against the petitioners by the complainant on account of prior animosity.

3. Both grounds do not appeal to me at all. A thorough discussion of the complaint was undertaken. Paragraph 8 suggests

that the posters were printed, pasted and published by the accused persons. Whether that allegation can be accepted or not can be decided in the course of trial. At any rate, quashing of proceedings on the ground that the responsibility for the publication is not alleged cannot be resorted to. There unmistakably are materials to show that the parties are at logger heads. No one files a criminal complaint against another unless there is animosity. The parties bearing good relationship are not seen in criminal court fighting against each other. The mere fact that there is strain in relationship is no ground to doubt the bonafides of the prosecution or to conclude that the complainant is actuated by malafides. No other contentions are raised.

4. The learned counsel for the petitioners submits that the first petitioner is a retired Principal of Sanskrit College, Trivandrum and the second petitioner is his son. Unnecessary insistence on personal appearance of the petitioners before the learned Magistrate is bound to result in great hardship, prejudice and loss. It is for the petitioners to apply for exemption and I find no reason why the learned Magistrate should not consider such application favourably.

5. With the above observations, this Crl.M.C. is dismissed.

(R. BASANT)
Judge

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